



New Mexico Coal  
San Juan Coal Co.  
P.O. Box 561  
Waterflow, NM 87421

February 27, 2003

Mr. Marvin W. Nichols, Jr.  
Director, Office of Standards, Regulations & Variances  
Mine Safety and Health Administration  
1100 Wilson Blvd., Room 2313  
Arlington, Virginia 22209-3939

RE: Comments Relative to Proposed Rule  
30 CFR Parts 48 and 75  
RIN 1219-AB33  
Emergency Evacuations; Emergency Temporary Standard

Dear Mr. Nichols,

San Juan Coal Company has completed our review of the Emergency Evacuations; Emergency Temporary Standard: Final Rule and is submitting the following comments for the consideration of the Agency in determining the exact content of the Final Rule.

The majority of the components of this standard were already part of our Part 48 Training Plan and our Approved Program of Instruction, Firefighting and Evacuation Plan. If these components were not included in the plans at other mines, it seems that a more appropriate approach would have been for the District Managers to request that these items be included in the plans at those mines, rather than going through the Emergency Temporary Standard process.

**Part 48.8**

The amendment of this section to include a review of firefighting and emergency evacuation plans as part of each miner's annual refresher training curriculum has the full support of San Juan Coal Company. This need was recognized previously and this particular course was already a component of our refresher curriculum and required no action on our part.

**AB33-COMM-102**

## **Sec. 75.1501 Emergency evacuations**

### **75.1501 (a)**

San Juan Coal Company is in agreement that a responsible person should be designated any time persons are underground. Our Approved Program of Instruction, Firefighting and Evacuation utilized this terminology prior to the Emergency Temporary Standard being published. We currently have our Shift Foremen serving that role. These persons are provided with a backup during periods spent underground when immediate two-way communication is not possible. The backup is accomplished through the use of Control Systems Analysts, Administrative Technicians and Security. These persons also function as the responsible person described in 75.1600-1.

The current lack of definition regarding the duties and training required for the Responsible Person under this section of the Emergency Standard puts an enormous burden on mine operators, miners and MSHA Inspectors to try and determine whether or not compliance with the standard is being accomplished. Lack of definition and explanation will result in more than one standard of compliance and enforcement. This also virtually guarantees issuance of citations, to the benefit of no miner. That standard will change with each new inspector that arrives at the mine. This problem has already surfaced with the Temporary Standard based on testimony at the public hearings.

### **75.1501 (b)**

If a mine emergency is encountered, an immediate evacuation must be ordered. If that evacuation order is given, the responsible person, as defined in this new rule should be required to go to the surface area of the mine and direct that evacuation of all miners to a place of safety, rather than going to the location that is causing the emergency situation. Upon reaching the surface, the responsible person can assume the role of Incident Commander in preparing an appropriate response to the emergency situation. As additional resources arrive at the mine, the role of this Responsible Person may change. That ability to change roles should be included in the Final Rule.

### **75.1501 (c)**

Assuring that miners have been informed regarding who the Responsible Person is for their shift is an important piece of information. The current version of the rule places a tremendous burden on mine operators, miners and inspectors in trying to determine whether compliance is being achieved.

This rule should be restated to require each mine to develop a system that is capable of communicating this identity prior to the start of each miner's work shift. This system should include a means for miners to find out if changes have taken place during the shift. That system could require the miner to use a mine communication system to obtain this information. For example, a pager phone call to the communications center. Mines utilizing a PED system could broadcast an All-PED message, etc. Miners should be able to describe how they can find out who the RP is at any time during their shift not necessarily be able to identify a specific name at all times.

The Final Rule needs to allow for some flexibility. If left as it is stated now there could be problems. For example, some mines utilize a check-in board that lists who the Responsible Person is for that shift. A miner checks in on that same board. The identity of the Responsible Person is very nearly at eye level when that miner checks in. The tag is less than 5 feet away from their own tag and they are facing the board. Because the miner knows who their Shift Foreman is, they often assume they know the identity of the Responsible Person. If this miner didn't notice that a replacement name had been placed in the Responsible Person slot and later in the shift was asked by a MSHA Inspector to identify the name of the Responsible Person for the shift, if they responded with the name of their Shift Foreman, they would be wrong and a violation would be issued. Similar enforcement activities have already taken place under the Temporary Standard.

### **75.1502 Mine emergency evacuation and firefighting program of instruction**

#### **75.1502 (d)**

It is important that all miners understand that they can and should warn of imminent danger that warrants evacuation. MSHA needs to better define the term Imminent Danger so that mine operators, miners and MSHA inspectors, clearly understand when such evacuation orders should be issued.

A roof fall could present an imminent danger if it occurs near your work area. Does this mean a complete mine evacuation is required?

Does an imminent danger mean a full mine evacuation or is evacuation of affected, or potentially affected miners going to be deemed an adequate response?

Education of miners regarding what might constitute an imminent danger will be an important piece. Mines with a highly experienced workforce would have different challenges from other mines that might have a largely inexperienced workforce. This issue can be addressed through better definition in the standard. This information can then be incorporated into the review and approval of each mine's Program of Instruction, Firefighting and Evacuation.

#### **75.1502 (a)**

This section needs to be rewritten. If a mine operator were to follow these instructions verbatim, they are ordered to violate the standard.

The rule calls for the immediate development of procedures for evacuation. It calls for these procedures to be submitted for approval by the District Manager. It then calls for training to begin as soon as possible but no later than January 13. The rule then goes on to state that no revision can be implemented prior to approval.

San Juan Coal Company submitted a revised Program of Instruction, Firefighting and Evacuation, to the District Office prior to the January 13, 2003 deadline. That program remains unapproved as of this date. Implementing changes proposed in that plan at this point would place us in violation of this standard.

San Juan Coal Company representatives attended the public hearing in Grand Junction, CO. Discussion at this public hearing included several topics associated with the Responsible Person and other issues relevant to the standard. San Juan Coal Company comments concerning these specific topics are as follows:

### **Location of the Responsible Person**

The opinion was expressed that the responsible person must remain on the surface at all times. It is the position of San Juan Coal Company that this responsible person (Shift Foreman) at our mine cannot remain outside the mine on the surface. Our responsible person (Shift Foreman) needs intimate knowledge of the mine, the ventilation system, the firefighting equipment and mine monitoring systems. Miners must have trust in this person's abilities and that will require time spent underground interacting with the miners. In order for this person to maintain this knowledge this person must work and travel in the mine.

San Juan Coal Company believes that any requirement for this responsible person to remain on the surface will result in a diminution of safety for miners. The responsible person cannot direct the day-to-day safe activities of the mine if they cannot go underground as part of their regular duties. This standard needs to be married to 75.1600-1. If the Shift Foreman is traveling underground the responsible person role can be accomplished by the responsible person described therein.

### **Communicating the Identity of the Responsible Person**

One opinion expressed at the public hearing was that each miner must know the identity of the Responsible Person at any time during the shift. It simply is not practical to require notification to each miner every time the roles change. This would require someone to contact each and every miner and communicate this change. A specific situation was described where the Responsible Person needed to enter a bleeder system to evaluate a safety related issue. During this period the RP would designate a replacement. Such a visit might last 30 minutes or less. Before the communication of the change could be completed the RP would be back and resume those duties, prompting another required communication of this change.

Our recommendation is that the standard requires each mine to develop its own system of communicating the identity of the RP at any time during the shift.

Requiring the RP to contact the person on the surface that is responsible for communications would be an example of such a system. This is another case for marrying this to 75.1600-1. This system must account for those vacation, illness or even on-shift absences or changes that can occur. Further, the standard should require that miners be able to describe how they can find out who the RP is during their shift. This would provide an inspector with a specific means of measurement to determine if the system is in place and effective. It would also help operators and miners understand what is expected of them regarding this knowledge.

Our mine utilizes assigned Shift Foremen as the Responsible Person and backs them up with Control Systems Analysts, Administrative Technicians and Security Personnel located in our Operations Center. These backup persons can initiate an evacuation order if the Shift Foreman is underground.

The Shift Foreman is the same person on every day that particular shift works, unless vacation, illness or other irregular events occur. The system in use at San Juan Coal Company requires the Responsible Person to place their nametag in the Responsible Person position on our check-in board. Any miner can look at that board and determine who the RP is for their shift. If a Shift Foreman is ill, or goes on vacation, a replacement is named and that replacement checks in on the Responsible Person slot. If the RP is going to be out of communication for brief periods, they contact the Control Systems Analysts and designate a replacement. Any miner can contact the Operations Center and learn if such a replacement has been made during the shift. An allowance for systems such as the one described above need to be incorporated into the Final Rule.

Enforcement of the current standard has included a determination by at least one MSHA inspector that it cannot take more than 10 minutes for any miner to reach the Responsible Person. Citations have been issued or threatened at some mines if that 10-minute time frame cannot be met. This is an example of how this rule will change based upon the interpretations of individual inspectors.

The proposed system described above addresses this problem by allowing miners to contact the responsible person defined in 75.1600-1. The Final Rule should contain this flexibility.

#### **Not Allowing Persons Underground Following an Explosion**

The comment was made by an MSHA official that the intent of this regulation was to prevent any persons from reentering the mine following an explosion. There should not be such a hard and fast rule. Following the initial explosions at the Willow Creek Mine, thanks to an experienced onsite MSHA inspector and some dedicated mine rescue personnel, two survivors were rescued from the mine. If there were a strict prohibition on reentry, this mine explosion would have claimed two additional lives.

If a mine emergency occurs, miners should be trained to 1-Communicate, 2-Evacuate to safety and 3-Make a plan to deal with the emergency situation. Evacuating to safety might be 50-feet outby the location of the emergency, or it might be an evacuation to the surface. A hard and fast rule to evacuate to the surface isn't always the right choice.

#### **Maintaining Transportation Units on Each Working Section**

One commenter at the public hearing discussed the need for this rule to require transportation to be available at all times on each working section. We disagree with that position.

Many mines such as ours utilize mantrip vehicles for transport of injured miners. These mantrips are equipped with ambulance kits. Such a requirement to keep the mantrip on the section would mean that if an injury occurred, all the miners on that working section would all need to evacuate because the mantrip vehicle would be leaving. These evacuating miners could not use the mantrip; it's being used to transport the injured miner.

Transportation requirements should not be a specific item in this rulemaking. The program of instruction for firefighting and emergency evacuation allows each mine to define the methods of rapid assembly and transport of personnel that apply for that particular mine. That process should be continued.

**Training Requirements for AMS Technicians**

San Juan Coal Company recognizes the need to staff mine monitoring systems with qualified technicians. If a training requirement is to be incorporated into the Final Rule, it must be very specific regarding the expectations. Without such clearly defined expectations an enormous burden is placed on mine operators, miners and MSHA inspectors in determining whether compliance is being achieved. If training is included in the Final Rule, a clear expectation must be provided.

San Juan Coal Company appreciates the opportunity to provide these comments. Please consider them in preparation of the Final Rule.

Sincerely,

(SIGNED)

David C. Hales CMSP  
Underground Safety Coordinator  
San Juan Coal Company